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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,548	11/10/2003	Alan J. Lang	27569	5097

33357 7590 02/22/2007  
ADVANCED MEDICAL OPTICS, INC.  
1700 E. ST. ANDREW PLACE  
SANTA ANA, CA 92705

EXAMINER
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IZQUIERDO, DAVID A

ART UNIT	PAPER NUMBER
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3738

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/705,548	Applicant(s) LANG ET AL. ✓	
	Examiner David A. Izquierdo	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,5-8,11,13-17,22-24 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,11,13-17,22-24 and 33-40 is/are allowed.
- 6) ☒ Claim(s) 5-8, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 January 2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 31 January 2007 have been fully considered but they are not persuasive. Applicants have argued that the limitation "an outer periphery" defines claim 32 over the prior art reference, Glick. Applicants assert that the Glick reference does not provide an IOL capable of accepting light from a distant source, allowing the light to pass through the entire optic and fall within the range of the depth-of-focus of a spherical lens having the same focal length. However, the Glick reference teaches that the power variation over the optical surface can be as small as +0.5 diopters. (Col. 5, lines 19-21) and as taught by Applicants within the pre-grant publication "a monofocal lens is one in which discrete adjacent regions or zones have a maximum difference in refractive power of less than at least about 0.75 Diopters." (Paragraph 0045). Since the Glick reference meets the definition of a monofocal lens, as provided by Applicants, the IOL of Glick would certainly be capable of allowing light to fall within the depth-of-focus of a spherical lens having the same focal length.

3. Glick further teaches that the configuration of the IOL can compensate for shift in IOL position due to post-operative changes in intraocular tissue and other structures, therefore Glick would be able to compensate for minor optical aberrations resulting from lens decentration (col.4, lines 45-49).

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 5-8, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Glick et al (U.S. Patent Number 7,018,409).

3. Glick et al. discloses an intraocular lens (IOL) comprising an inner zone having a first optical power and an intermediate zone with a second optical power and a third zone having a power different from the second zone. The IOL as disclosed by Glick et al. progressively varies power from the center to the periphery thereby creating essentially infinite amounts of zones. Furthermore, Glick et al. discloses a range of 0 diopters at the optical axis to 1.5 diopters at the periphery allowing two separate zone to be defined with a difference in magnitude of 0.65 diopters. (col. 5, lines 5-8) Finally, Glick et al. discloses an IOL comprising a spherical portion at the center of the lens with an aspheric portion at the periphery (col. 2, lines 63-67; col. 3, line 1) and an IOL which compensates for shifts in IOL position due to postoperative changes (col. 4, lines 47-48).

Art Unit: 3738

***Allowable Subject Matter***

4. Claims 2, 11, 13-17, 22-24, and 33-40 are allowable over the prior art of record.

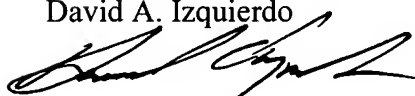
***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Izquierdo whose telephone number is 571-272-1943. The examiner can normally be reached on Monday through Friday from 8:00 am until 4:30 pm.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David A. Izquierdo



Patent Examiner

*A. Stewart*

ALVIN J. STEWART  
PRIMARY EXAMINER